

IT TAKES A V-CHIP

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For decades the cycle could not be broken. Parents would cry out for relief from the diet of mayhem and violence fed to their children through the medium of television. Congress would hear their cries and shine the spotlight on the television industry. The industry would mount a counteroffensive, declaring parents to be irresponsible and criticism of television by politicians to be a blatant violation of the First Amendment. Barrels of ink would be devoted by the press and pundits to acknowledging both the legitimate criticism by politicians about the impact of television on children and the concern of the industry's leaders about censorship, and urging both sides to work it out.

Meanwhile, parents got no help.

As a state representative, I was prompted to get involved in this debate back in 1975 after a grisly murder occurred in Boston. A man was doused with gasoline and burned to death by some kids shortly after a similar murder had been portrayed on Boston television in a movie. I went on the air to challenge local stations to use their power to block network fare that was inappropriate for children. To no avail.

Until 1996, when technology lent a hand.

Here is the story of the V-chip. It is so full of paradoxes that I have organized it in Paradoxical Order.

Paradox #1: A Happy Accident

The story of the V-chip begins in 1990 with the passage of the Television Decoder Circuitry Act of 1990. This legislation had nothing to do with TV violence, yet it became the platform on which we built the V-chip. It is the First Paradox.

The Television Decoder Circuitry Act requires that, as of 1993, every TV set over 13" contain the electronics needed to provide closed captioning for the deaf and hard of hearing. Importantly, it made commercially viable the process of sending electronic information to your TV set over the so-called "Vertical Blanking Interval."

The Vertical Blanking Interval is part of the signal that carries a TV show to your TV set, but it is not visible. Thus, closed captioning can be sent to TV receivers and remain invisible unless and until the consumer activates the decoder chip.

This technology is wonderful. We sell 25 million TV sets a year in this country, which allows the closed captioning technology to be installed in new sets for less than \$5 per set. It has been a boon not just to the hearing-impaired, but to those struggling to learn our language.

But it also turns out that the electronic platform that now decodes closed captioning information can also be used to decode any other information contained in the Vertical Blanking Interval...such as violence ratings.

Paradox #2: You Can't Keep the Lid on Technology

The Electronic Industries Association ("EIA"), the group that represents TV set manufacturers, fought

the Decoder bill in 1990, but when faced with the prospect of incorporating the closed captioning chip into new TV sets, spied the silver lining. The EIA formed a committee to decide what new features to build on top of the closed captioning chip. Knowing that every new feature could be added for a few cents (having already incurred the major cost (\$5) installing the closed captioning capability), the EIA agreed on nearly 40 codes that would give consumers the ability to navigate in a world of 100 channels or more. It called these new features Extended Data Services ("EDS"). And among those EDS features was the ability to block all television shows rated "V" for violence, "N" for nudity, or "L" for language.

Enter the broadcasters. Although they lacked formal member status at the EIA, broadcasters have traditionally been accorded great deference in the consensus standards process at the EIA. In 1992, when the EIA suggested adding the blocking-by-rating feature to the closed captioning chip, the broadcasters said "NO."

Thus the Second Paradox. The EIA needed FCC approval for EDS, so in April 1993 its representatives briefed my staff in April 1993, about all the features it contained. When I learned that one of the most useful features to parents had been vetoed, it was clear to me that Congress would have to play a role in countering this antitechnology, anticompetitive maneuver by broadcasters. So, paradoxically, the TV industry itself, not Congress, conceived of the V-chip. My role was to put back on the racks an idea that was derailed by the broadcasters over the objections of most of the rest of the industry.

Paradox #3: A Rating By Any Other Name...

I convened the Telecommunications subcommittee for our first hearing on May 12, 1993 in the middle of one of the bloodiest months of TV programming in recent memory. The public concern over the epidemic of graphic violence had been building for some time, but May 1993 was particularly bloody on television. It was particularly distressing because it occurred just 5 months after the networks had established a new set of voluntary standards to control the amount of violence on television.

My opening statement outlined the plan that President Clinton and 30 executives from every corner of the industry would embrace three years later. "The more parents know in advance about which shows are violent, the better equipped they will be to perform the parental role of choosing suitable television programming for their children. That is why I believe the industry should consider adopting a rating system for TV violence similar to the popular rating system already in use for the movie industry. I also believe we should consider requiring television sets sold in the United States to incorporate technology to block channels or programs deemed too violent for children."

On May 19, I wrote to each major industry executive and asked their opinion of this plan. On May 21 and June 8, Senator Paul Simon, who had helped push the networks to adopt the new standards and was therefore particularly disappointed in the violent May programming, held hearings. On June 25 the subcommittee held a second hearing to demonstrate some of the new blocking technologies, and announced that the heads of the networks would be testifying on July 1.

On the eve of their testimony before the House subcommittee, the networks made a major concession. In a packed press conference, the networks announced a new "Parental Advisory" initiative. Under the plan, they would begin placing advisories on some shows stating "Parental Discretion Advised" and indicating whether the advisory was being attached for violence, or sexual content, or adult language. Senator Simon and I both attended that press conference, and I praised this initiative as a "good first step." After all, the networks had just crossed over into a new world of rating their shows for parents. They didn't call them ratings, and they didn't rate many shows, but from this point forward, it was impossible for the networks to argue redibly against ratings. They were trapped in the contradiction of

the Third Paradox. How could they argue against something they were already doing?

Nevertheless, the networks maintained that ratings were anathema, and allowing blocking technology to block shows that were rated was heresy. They made clear in the hearing that their greatest objection was the potential loss of advertising revenues.

On July 29 I invited the ten largest television advertisers in the country to testify about their responsibilities in this area. Only one -- AT&T -- agreed to come.

The Television Violence Reduction Through Parental Empowerment Act of 1993

In August, I introduced HR 2888, the first V-chip bill. It was a bipartisan bill cosponsored by a majority of the members of the subcommittee. Senator Byron Dorgan introduced the companion bill in the Senate.

Although it was clear that the broadcast community would continue to fight the V-chip while attempting to buy time through more voluntary initiatives, we were making progress. The hearings had resulted in favorable editorial comment throughout the United States. Ted Turner had endorsed the V-chip. A broad array of social scientists, community activists and medical experts had established the harm of televised violence and many had welcomed the V-chip. By the end of the year, we had also secured a letter from the Attorney General advising that the bill was consistent with the First Amendment. The satellite tv industry supported the V-chip. And in February, 1995, the National Cable Television Association endorsed "viewer control technology", including the V-chip, as long as it was adopted voluntarily.

In June, both the cable and broadcast industries announced separate "monitoring" studies of violence on television. These announcements were closely coordinated with Senator Simon, who agreed to forestall legislation while these studies proceeded. As we shall see, these studies turned out to play an important role in the final push for a national ratings system to go with the V-chip.

In the meantime, the House subcommittee continued to prepare the way for the V-chip in two ways. First, I continued to press the EIA to go forward with including blocking capabilities in their EDS plan. To its credit, this association decided to confront the opposition of the broadcasters and to proceed with developing a standard for the V-chip. Two key proponents of this technology during these internal industry struggles were Julius Szakolczay, then an engineer with Mitsubishi, and Tony Cox of Showtime.

Second, I released a study of how poorly the networks were implementing their own "Parental Advisory" initiative. The study found that the tv "grids" in newspapers were not carrying the advisories; that less than half were even mentioned in the program guides; and that the industry was not explaining why parental advisories were attached. In response to this report, all four networks sent a joint letter to the newspaper industry seeking to disseminate more effectively their parental advisories.

Paradox #4: Buried, But Not Dead

The election of 1994. As the Republicans assumed their new positions of leadership in the House and Senate, it was widely assumed that initiatives opposed by the broadcasters, such as the V-chip, would not move. Indeed, at least one Republican leader stated shortly after the election that "the V-chip is dead." Yet another paradox.

At first this appeared to be true. 1995 was a very difficult year for Congress. Anything not part of the

Contract with America was automatically pushed to the back of the line. The industry was "monitoring" its violence, and the new Congress was in no rush to take up issues that might put it at odds with a powerful constituency.

In fact, the telecommunications subcommittee began the year by returning to the telecommunications reform bill. The collapse of this broad reform effort in the Senate at the end of the 103rd Congress required an intensive effort to move it forward again early in the 104th Congress. It was not until May 1995, that I was able to return to the V-chip.

During markup of the Telecommunications Reform bill in the Commerce Committee, I attempted to add the V-chip. The amendment included other issues besides the V-chip and the vote was a disappointing 15-32, with every Committee Republican voting against me. The next time I offered the amendment, I vowed I would make it a clean up-or-down vote on the V-chip.

Easier said than done.

Paradox #5: V-chip Revived By Its Opponents

While the V-chip was stalled in Congress, Canada was conducting a demonstration of its viability. In 1994 Keith Spicer, Chairman of the Canadian Radio-television and Telecommunications Commission had come to see me to outline the progress he was making in Canada to combat violence with a cable-based box that would work for cable subscribers the same way that the V-chip would work in television sets. Tim Collings, an engineering professor at Simon Fraser University had developed the technology and named it the "Vyou Control" system. By the spring of 1995, this technology was ready for an 80-home test in Edmonton. The early reports from this test were very encouraging and helped spur interest in the V-chip debate in Congress. Collings' technology was a cable add-on and did not have the cost advantage I was seeking by using the existing closed captioning chip platform, but it helped defeat two of the most common arguments still being used by the broadcasters to slow down the V-chip. They could no longer argue that the technology "didn't exist," and they could no longer argue that it "wouldn't work."

Then came the Fifth Paradox. Senator Bob Dole, an opponent of the V-chip, helped push the issue of violence in the media back onto the front pages of the daily papers with a speech aimed at gangsta rap and Time Warner. Dole's speech occurred on the eve of the Senate's consideration of the Telecommunications bill. Senators Kent Conrad and Joe Lieberman saw their opening. They crafted a V-chip amendment, following the structure of the original Markey and Dorgan bills, and brought it to a vote in the Senate on June 13.

To the outside world, the V-chip amendment passed easily, 73-26. But anyone who was watching closely would have seen that the vote was very close until the very end of the time allotted for voting. Those who still believed that voluntary efforts would be sufficient attempted to forestall any legislation by substituting a non-legislative "sense of the Senate" resolution. They almost succeeded.

Senator Conrad had taken the broadcast industry by surprise. There would be no surprises in the House. While support for the V-chip was growing, so was the determination of the opposition.

Jim Moran (D-VA) and John Spratt (D-SC) were now working closely with me on the amendment we would offer in the House. But we knew there was no guarantee that we would be allowed to offer the amendment. As the August recess approached, it became clear that the Telecomm bill was going to be considered as the last item. Members would be desperate to catch longstanding plane reservations. In

this atmosphere, amendments could be severely limited by the Rules Committee without causing much grumbling. As ranking Democrat of the Telecommunications subcommittee, I was already asking for several other amendments opposed by the leadership. At one point, the House leadership even considered bringing up this massive rewrite of telecommunications law in the middle of the night.

In order to ensure that the V-chip amendment would be allowed, and to increase our chances of prevailing in the House, we needed a committed Republican. We found him in Dan Burton. Although several other Republicans became original cosponsors of our amendment, Dan Burton became a critical member of the team and was the one who led the way in favor of the V-chip among the House Republicans and conservative interest groups.

Earlier in July, the V-chip received a major boost from the President of the United States. At a conference on Family and the Media in Nashville on July 10, with Vice President Al Gore moderating, President Clinton declared the V-chip "a small thing but a big deal for parents." This was not the first time the President had talked about the V-chip, but the timing of this endorsement was clearly intended to help raise the importance of the issue and our amendment as we headed for the House floor. The V-chip began to move on to the front pages of national newspapers.

The Rules Committee met to decide on the order of debate on the Telecommunications bill. Two Markey amendments were allowed but the Committee balked at the V-chip. Clearly the political backlash would have been too great if the Committee had simply forbidden the amendment. Instead, the rule placed the V-chip in a procedural vise. It allowed for a study, to be offered by Rep. Coburn, to substitute for the V-chip. The vote on the study would come first. If the study passed, it would bump the V-chip and there would be no vote on this important issue.

This was a potential disaster. If the broadcasters were successful in keeping our amendment out of the House bill, the House position in conference with the Senate would be "no V-chip." In the wheeling and dealing of such a broad and sweeping conference, parents could easily lose this provision.

The showdown occurred on Friday, August 4. The leadership was ready for us. The Coburn study was receiving the full benefit of the Republican whip machine. Majority Leader Armey took the floor and spoke fervently in favor of the Coburn study and against the V-chip. Coburn won. The V-chip lost.

Snatching Victory from Defeat

But we weren't done yet. Parliamentary procedure. The rules routinely permit the minority party to offer a so-called "recommittal motion" prior to final passage. We were determined to get a vote on the V-chip. Recommittal motions are rarely successful but we had no choice. Immediately after the Coburn vote, I offered a recommittal motion that preserved the Telecom bill without change, but added the V-chip. "My colleagues will still have the Coburn study if they want it," I said, "but parents will have something out of this as well." Dan Burton took the well and spoke passionately and personally of the effects of violence in the home. The vote on the recommittal motion occurred. The final vote was 224-199. The V-chip had won in the House.

The final chapter of this saga came nearly six months later. The conference between the House and Senate on the V-chip was not contentious. The report on TV violence commissioned by the broadcasters was released in October, but its message was mixed and did not deflect support for the legislation. Canada conducted another test of Tim Collings' new and improved version of the V-chip in Toronto. Participants in the test were overwhelmingly positive. The Senate receded to the House, guaranteeing that the V-chip would be included in the Telecom bill in a form that was difficult for challenge in court.

It mandated the inclusion of the V-chip in new TV sets, but it did not mandate the ratings necessary to make the V-chip work.

This turned out to be a strength, not a weakness, because it denied the broadcasters their last remaining excuse for fighting the V-chip. Clearly there was no government censorship if there was no requirement to rate shows. We had left the discretion to rate to the industry, but had simultaneously strengthened the ability of TV viewers, particularly parents, to talk back to the industry through the V-chip. Even if broadcasters continued to resist, cable was ready to cooperate, as were satellite.

Broadcasters were running out of options.

But as of January, the Telecomm bill was still in limbo. Although the conferees had reached agreement on most issues, the leadership was still refusing to schedule final passage as it continued to arbitrate a series of internal disputes.

This gave the President a golden opportunity, which he seized masterfully. On January 23, in the State of the Union Address, the President challenged Congress before the entire nation to pass the V-chip. Moreover, he invited the Television industry to a summit at the White House to talk about how to give parents the information they need to protect their children from unwanted programming.

Simultaneously, the V-chip proponents in the House and Senate sent a letter to every major television executive urging each of them to begin thinking about how to implement the V-chip. We urged that at least as much time be spent on developing the necessary rating system as was likely to be spent on futile constitutional challenges.

Paradox #6: Self Inflicted Wounds

As the broadcasters huddled with their First Amendment lawyers, they were hit suddenly by the long-delayed and nearly forgotten cable industry TV violence report. It was devastating. It shredded the industry argument that the V-chip was unnecessary because voluntary action was working. Instead, the authors found that in the programs studied, perpetrators were going unpunished in 73% of all violent scenes, and only 4% of violent programs emphasized anti-violence themes. It also outlined in detail the ways in which televised violence harmed young children.

This may have been the greatest paradox of all -- that a study initiated in 1994 to block passage of the V-chip should become one of the most powerful arguments to go forward with the V-chip in 1996.

The last remaining objections began to fall. Congress soon passed the Telecomm bill and the President signed it in a Library of Congress ceremony on February 8. The FCC approved the Disney/Cap Cities merger the same day.

It Took A V-chip

President Clinton set the date for the White House Summit for February 29. Disney and Fox began pushing CBS and NBC to abandon plans for litigation in favor of a constructive effort to develop voluntary ratings. Rupert Murdoch went public, saying that Fox intended to rate shows whether or not it was joined by the rest. Jack Valenti of the Motion Picture Association assumed the role of shuttle diplomat among the entertainment, broadcast and cable industries. An agreement was achieved and announced on the morning of the summit. There would be a pan-industry agreement on a national TV ratings system and these ratings would be sent to the V-chip so that parents could block shows. On

February 29, nearly every opponent of the V-chip had found a way to say "yes" to this simple parental empowerment device. The sun began to rise on a national tv ratings system as President Clinton welcomed the industry to the White House.

The power of television to shape our society remains vast. Many of our children spend more time watching television than attending school. We have now found a way to separate our kids from programming that is bad for them. We have also challenged the television industry, through the Children's Television Act of 1990, to harness the power of television to provide programming that is good for children, that educates and informs our children. This has resulted in the "Three 4 Kids" rule at the FCC, requiring every commercial broadcast station to air at least three hours of educational programming for children per week as a condition of license renewal. Our next great challenge is to spread the benefits of the telecommunications revolution in our schools so that all children, rich or poor, urban or rural, have the opportunity to qualify for the high-skill jobs of the Information Age.
